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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/785,343 | 02/24/2004 | Robert James Yarbrough | Yarbrough 001 | 8742 |
| 38288 | 7590 | 06/27/2005 | EXAMINER | |
| ROBERT J. YARBROUGH, ATTORNEY AT LAW 201 NORTH JACKSON STREET MEDIA, PA 19063 | | | MARSH, STEVEN M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3632 | |

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/785,343 | Applicant(s) YARBROUGH ET AL. | |
| | Examiner Steven M. Marsh | Art Unit 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the second office action for U.S. Application 10/785,343 for a Holder for Reading Material filed by Robert James Yarbrough et al. on February 24, 2004. Claims 22-39 are pending.

Allowable Subject Matter

Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose an apparatus for holding reading material with a support member; a horizontally disposed upper and lower frame member defining a plane and a frame engaging the first and second frame members and being foldable between a first and second position with respect to the support member; wherein the engagement of the lower frame member and the frame is a movable engagement; and the distance is selected through an adaptation including a screw engaging the frame and lower frame member, the screw adapted so that rotation of the screw in one of a clockwise and counterclockwise direction causes the lower frame member to one of advance towards and retreat from the upper frame member, and rotating the screw in the opposite direction has the opposite effect.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 25 recites the limitation "said frame" in 3 of page 4. There is insufficient antecedent basis for this limitation in the claim. Claim 26 recites the limitation "said first and second frame members" in line 7 of page 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,112,021 to Greene. Greene discloses an apparatus for holding reading material with a frame (18 and 24) with a first position and a second position. There is a plate (the rectangular member with flanges 38 or the member 40) composed of a transparent material and attached to the frame. The plate is adapted to support reading material against the pull of gravity when the frame is in the first position and the plate has an opening (between 38 or at the bottom of 40) that is adapted so that a person can manipulate reading material through the opening when the frame is in the first position. The plate is also adapted so that the person can observe substantially all of the reading material through the opening when the frame is in the first position and the person is reclining on a surface. There is a support member (12) and a first hinge (formed at the

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connection of 12 and 16) connecting the frame and the support member so that the frame may move between first and second positions.

Claims 23-29, 32, 33, and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,889,914 to Torme. Torme discloses an apparatus for holding reading material with horizontally disposed upper (41) and lower frame members (31). The upper and lower frame members are in spaced apart relation and one is movable to define a user-selectable first distance between the upper and lower frame members, that defines an opening. There is a support member (1, 3, 5, 6) adapted to support the upper frame member above a person when the person is in a reclined position. The upper and lower frame members are adapted to support reading material against the pull of gravity such that the upper and lower frame member are interposed between reading material and a person. The upper and lower frame members define a plane that can be interposed between reading material and a person when the person reclines on a surface such that a portion of the reading material is visible to the person through the opening. There is a lip (32 or 33) engaging the frame and defining a lower location of the reading material to hold the material in position on the plane defined by the upper and lower frame members.

There is a frame (4 and 20) that engages the first and second frame members and is foldably engaged with the support member, the frame being foldable between a first position and a second position with respect to the support member. The engagement between the upper frame member and the frame is a movable engagement, and the foldable engagement of the frame and the support member has a

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first hinge (6) joining the frame and the support member. The support member has an arm (3) and a first hinge (6) joining the arm and the frame. There is a base (between 2 and 5) and a second hinge (5) connecting the base and the arm, and there is a first means (2) to determine a first angle defined by the arm and the frame. Claims 23-39 contain limitations to the reading material. However, the reading material is not positively recited in the claims, and therefore the limitations carry no patentable weight.

Claim Rejections - 35 USC § 103

Claims 30, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torme in view of U.S. Patent 4,140,296 to Guzman Guillen. Torme does not disclose a lower that has a movable engagement with a the frame. Guzman Guillen discloses an apparatus for holding reading material with a support member (20) and a frame (30 and 49). There are upper and lower frame members (50 and 51) that each have a movable engagement with the frame to support books of varying size. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted the frame taught by Guzman Guillen, for the frame on the apparatus of Torme, for the purpose of providing a frame where the upper and lower members adjust to securely support a book of varying size.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torme in view of Ferraro. Torme does not disclose a floor plate and a column attached to the floor plate for supporting a frame. Ferraro discloses an apparatus for holding reading material with a frame (29) that is supported by a support member on a floor. The

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support member has a column (17) and is supported on the floor by a plate (15). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a column and floor plate as the support member for the apparatus taught by Torme, as taught by Ferraro, for the purpose of supporting the reading apparatus on the floor.

Response to Arguments

Applicant's arguments with respect to claims 22-39 have been considered but are moot in view of the new ground(s) of rejection. Also, claims 1-21 should be indicated as canceled.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

SM
Steven M. Marsh

June 20, 2005

Ramon O. Ramirez
RAMON O. RAMIREZ
PRIMARY EXAMINER
ART UNIT ~~355~~3632